UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

In Re:

KELLI L. CHEEKS,

Debtor.
______________________________/

Case No. BG 15-06935

Chapter 7; Filed: 12/24/15

Honorable James W. Boyd

JEFF A. MOYER, Chapter 7 Trustee,

Plaintiff,

v.

Adversary Proceeding No. 16-__________

AVANT, INC.,

Defendant.
______________________________/

COMPLAINT TO AVOID AND RECOVER PREFERENTIAL TRANSFERS

NOW COMES Chapter 7 Trustee Jeff A. Moyer, by and through his attorneys, The Bankruptcy Group, Inc., and for his Complaint in this matter, states as follows:

1. Kelli L. Cheeks ("Debtor" or "Cheeks") filed a voluntary Chapter 7 petition on December 24, 2015.

2. Jeff A. Moyer ("Trustee") is the duly-appointed, acting and serving Trustee for this Chapter 7 case.

3. This Court has jurisdiction over this case and Adversary Proceeding pursuant to the provisions of 28 U.S.C. §157 and §1334 and 11 U.S.C. §547 and §550.

4. This matter is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A), (E), (F) and (O).

5. Venue is proper in this Court pursuant to 28 U.S.C. §1409.

6. This Adversary Proceeding arises out of the case of Kelli L. Cheeks, Bankruptcy Case No. BG 15-06935, a Chapter 7 case currently pending in the United States Bankruptcy Court for the Western District of Michigan before the Honorable James W. Boyd.

7. Upon information and belief, Defendant Avant, Inc. is a Delaware corporation with its headquarters office located at 222 N. LaSalle Street, Suite 1700, Chicago, Illinois 60601 and is authorized to do business in the State of Michigan.

COUNT I - AVOIDANCE OF PREFERENTIAL TRANSFERS UNDER §547

8. The Plaintiff Trustee hereby incorporates by reference all the allegations contained in paragraphs 1 through 7 above of this Complaint as if fully restated herein.

9. Upon information and belief, the Debtor made payments (hereinafter the "Transfers") totaling $4,460.40 to the Defendant for repayment of an unsecured personal loan within the 90 days prior to the date of the Debtor's bankruptcy filing.

10. Upon information and belief, the Transfers were to or for the benefit of a creditor. *See 11 U.S.C. §547(b)(1).*

11. Upon information and belief, the Transfers were for or on account of an antecedent debt owed by the Debtor before such Transfers were made. *See 11 U.S.C. §547(b)(2).*

12. Upon information and belief, the Debtor was insolvent at the time the Transfers were made. *See 11 U.S.C. §547(b)(3), (f).*

13. Upon information and belief, the Transfers were made on or within 90 days prior to the date of the filing of the petition. *See 11 U.S.C. §547(b)(4)(A).*

14. Upon information and belief, the Transfers enabled the Defendant to receive more than it would have been entitled to receive if this case had been filed under Chapter 7 of Title 11;

the Transfers had not been made, and the Defendant had only received payment of its indebtedness to the extent provided by the provisions of Title 11. *See 11 U.S.C. §547(b)(5)(A)-(C).*

WHEREFORE, Plaintiff Trustee Jeff A. Moyer respectfully prays for a judgment and Order in favor of the Plaintiff Trustee and against Defendant Avant, Inc. pursuant to the provisions of §547(b):

A. Avoiding the Transfers made to Defendant Avant, Inc. in accordance with §547(b) of the Bankruptcy Code;

B. Granting a money judgment in favor of the Plaintiff Trustee and against Defendant Avant, Inc. in the amount of the Transfers made within the 90 days prior to the Petition Date, plus the $350.00 filing fee for this Adversary Proceeding, plus post-judgment interest as allowed, and such other costs or amounts as this Court finds just and equitable; and

C. Granting such other or further relief as this Court may deem just, equitable and proper.

COUNT II - RECOVERY OF AVOIDED TRANSFERS PURSUANT TO 11 U.S.C. § 550

15. The Plaintiff Trustee hereby incorporates by reference all the allegations contained in paragraphs 1 through 14 above of this Complaint as if fully restated herein.

16. Upon avoidance of the Transfers under Count I above, Plaintiff is entitled to recover the value of the Transfers from the initial transferee and any immediate or mediate transferee of such initial transferee under the provisions of 11 U.S.C. §550.

17. Defendant Avant, Inc. is the initial transferee of the Transfers avoided under Count I above.

18. Defendant Avant, Inc. is the party for whose benefit the Transfers were made.

WHEREFORE, Plaintiff Trustee Jeff A. Moyer respectfully prays for a judgment and order in favor of the Plaintiff Trustee and against Defendant Avant, Inc. under the provisions of §550:

A. Granting a money judgment in favor of the Plaintiff Trustee and against Defendant Avant, Inc. in the amount of the Transfers made to the Defendant by the Debtor within the 90 days prior to the Petition Date, plus the $350.00 filing fee for this Adversary Proceeding, plus post-judgment interest as allowed, and such other costs or amounts as this Court finds just and equitable; and

B. Granting such other or further relief as this Court may deem just, equitable and proper.

Respectfully Submitted,

THE BANKRUPTCY GROUP, INC.
Attorneys for Plaintiff Trustee Jeff A. Moyer

Dated: August 4, 2016

By: ______________________
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